TO:

Gary McLean, Hearing Examiner

FROM:

Larry Hooper

DATE:

February 14, 2017

Appeal Number: LAND-2016-02140

# HOOPER HEARING MEMORANDUN FOR **HEARING OF FEBRUARY 15, 2017**

I submit this hearing memorandum regarding my appeal of the City of Redmond's denial of my request to be issued a building permit to rebuild and restore a portion of our property that was destroyed by fire on or about May 6, 2016. The property is located at 14609 NE 91st Street. A picture before the fire of the portion destroyed by fire is Exhibit A. The attached Exhibit B is a picture after the fire. Please consider the facts and attachments in this memorandum part of my testimony.

The property was purchased in 2004. At the time of the purchase of the property there was a warehouse structure made up of mostly concrete and a smaller connected portion made of wood. It is the wood structure that was destroyed by fire. The concrete structure was built in the early 1970s (City's Exhibit F) with the wood structure being built shortly thereafter-in 1976. (See photo of date in the foundation that is attached The City of Redmond officials admitted in a meeting on August 6, 2016, Exhibit C.) attended by Mark Hooper, that they were aware of the structure being there for many years. The complete structure was here for over 40 plus years before the fire.

It is my understanding that the Redmond Zoning Code, under 21.76.100F, requires that any elimination of a nonconforming use be "fair and orderly as possible and with justice to property owner(s) and business operator(s). In that spirit, I am seeking the application of common sense, fairness, compassion, discretion and equity from the City of Redmond to avoid being victimized a second time from this fire. We are longtime residents and business operators in Redmond. The City is denying me the ability to restore the property on the same footprint as it was in the mid 1970s. City's only argument is that it cannot locate a building permit for the portion of the structure that was destroyed. However, you can see by what was produced by the City in its Exhibit F, that the 1970s record keeping was not the same as today. Many of the documents are not legible and hand written by departments probably with limited staffing. It is more then possible that the permit was misplaced or lost.

Even if the building was considered nonconforming, there is no dispute that the use of the structure was continuous and never abandoned since construction. There is no dispute that the City of Redmond was aware of the portion of the building that was destroyed by fire. The City's awareness of the building throughout these many years is important when applying equity and fairness. The City admitted in the August 2016 meeting of the awareness of the building and there were multiple times the City of Redmond Fire Department walked the premises with me. This building is zoned in a Manufacturing Park (MP) and is not on any main roadway and it is inconceivable that it violated the main purpose of the Code that is was a nuisance, that it would disrupt the orderly development of the City, or that it was a health hazard. See, aerial photo attached as Exhibit D.

The inability to restore and rebuild the portion of the structure that was destroyed by fire adversely affects the Hoopers. The Hooper Building was a 10,000 square foot warehouse consisting of 7500 of concrete and 2500 of wooden structures. (See attached diagram that is Exhibit E.) Hooper Imports LLC operated out of the building from 2004 until 2014 importing and distributing motor scooters. In 2014, the building was leased to Rumens and Associates to warehouse and distribute automotive parts and accessories. The twenty plus percent loss of warehouse space caused an immediate revenue reduction. Rent for 6/1/2016 was \$7200 per month and has now been abated to \$5750, a loss of \$1450 per month. If the building is not restored by 6/1/2017 the rent abatement would still be at \$5750, not the contracted \$8200 per month, a monthly loss of \$2450. When the property is sold the reduction in warehouse space would create a \$400,000 loss. This is calculated at \$175 per square foot. \* (Lee White The Jonter Group)

The City's memo to the Hearing Examiner tries to circumvent this hearing and asks for a dismissal by indicating that I did not provide "specific facts" or "alleged error of law." In reality, and omitted from the City's Memo, is that the City was non-

responsive to me throughout the Fall of 2016 to my requests as to how he is to proceed if the City has not issued any sort of decision that could be appealed. They simply left me in no man's land. I had to beg the City to issue a letter decision. I was then directed to fill out a form and get a hearing date. There had not been any "fact finding" at that point. A laymen's reading of the Appeal form does not state that a person is precluded from a hearing if the form does not fully exhaust all rationales of the appeal. At the very least, based upon the City's interpretation, the form is misleading if the Examiner can dismiss based upon the form. If so, then the form needs to be amended to clarify this clear ambiguity.

In addition, the photograph provided by the City as its Exhibit E cuts off the building in question and is not an accurate reflection of the destroyed area, the set backs, and the make up of this industrial area. I urge the Hearing Examiner to look at our unedited Google Bird's Eye view (attached as Exhibit D) that provides the entire scope of the property, which properly frames the issues and situation accurately. This Google picture supports that the rebuilding in the prior footprint not only fits, but also will not be a nuisance or a disruption to the orderly development of the City. Applying rules fairly requires proper perspective.

## Error and Failure to Meet a Fair Applicable Decision Criteria.

The preamble and purpose of the City Code section on legal nonconforming use and structures notes that:

It is the intent of this chapter to establish regulations and procedures which ensure that the elimination of legal nonconforming uses and structures occurs as fair and orderly as possible and with justice to property owner(s) and business operator(s). (RZC 21.76.100F)

When taking into account the history of this 40 plus year structure on the property the awareness of the City of the structure for years, its location off the main streets in a Manufacturing Park, and the real possibility that the permit was mishandled and lost, the denial of my request does not provide required justice to the property owner. I have been told that but for locating a permit I would have the restoration permit issued.

The City has taken the position that because a 1970's building permit is not located that it therefore could not have existed. The City has not provided any affidavit that it has never misplaced a permit, especially one done under different procedures in the 1970s. By the time our property was purchased this use had gone on uninterrupted for 30 years.

In addition to the City admitting its awareness of the structure in the meeting noted above, since the property was purchased the City of Redmond has inspected the complete building every year and even required a fire code update to the insulation 10 years ago. I would, as noted above, walk the property with the Fire Department inspector. (A sampling of the city's involvement with the property is attached in the various permit numbers as Exhibit F.) The City, being aware of an alleged nonconforming issue, could have informed me of a potential issue and I could have sought to have it classified as an "as built construction."

I have requested from the City of Redmond the name of the persons in charge of issuing building permits and conducting building inspections in the 1970s. That information was not forthcoming. So far, I am denied the right to inquire as to the City's actual procedures in the 1970s and whether these people had any recall of any permit application(s). Redmond was a small town in the 1970s and it is more then possible that Redmond officials interacting with the then owners of the property approved this wooden structure. I have also requested a copy of the City's zoning codes in the 1970s. That also has yet to be provided.

The City has provided nothing to show that the wooden portion of the structure was nonconforming both in size and location under the then City zoning code in the mid 1970s. They just cannot locate an old building permit.

Zoning codes are not only to be given reasonable construction, but also reasonable application. (See, Washington v. Bellingham, 25 Wn. App. 33 (1979)) A reasonable application of this zoning code, given the duration of this structure and it being in plain sight and checked by City officials, and that it is not a nuisance, that it would not disrupt the orderly development of the City, or that it was a health hazard, is

that it should be presumed to be a legal nonconforming use. The Code allows for the use of common sense and discretion. All I am asking for is common sense and fairness.

I respectfully ask the Hearing Examiner to rule that the City of Redmond should allow me to rebuild the damaged portion of his structure on the same exact footprint as it existed before the fire.

February 14, 2017.

By

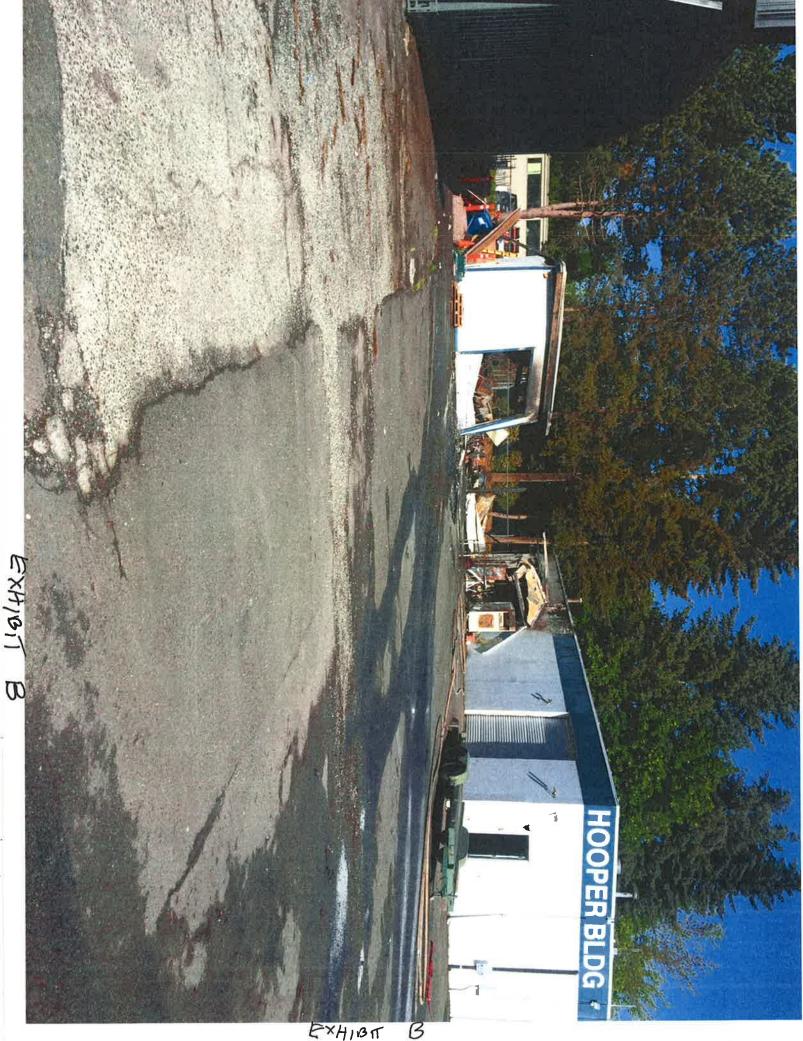
Larry Hooper



Exhibit A



EXITIBIT A- continuel

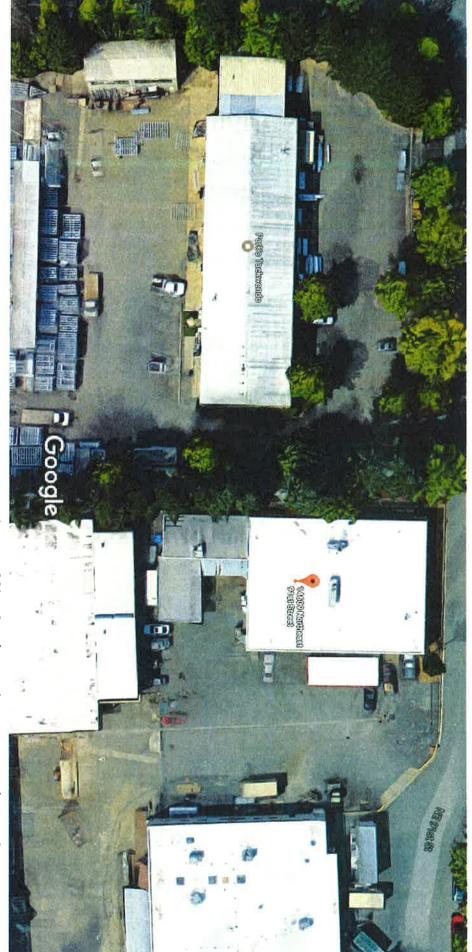


EXHIBIT



Exhibit C

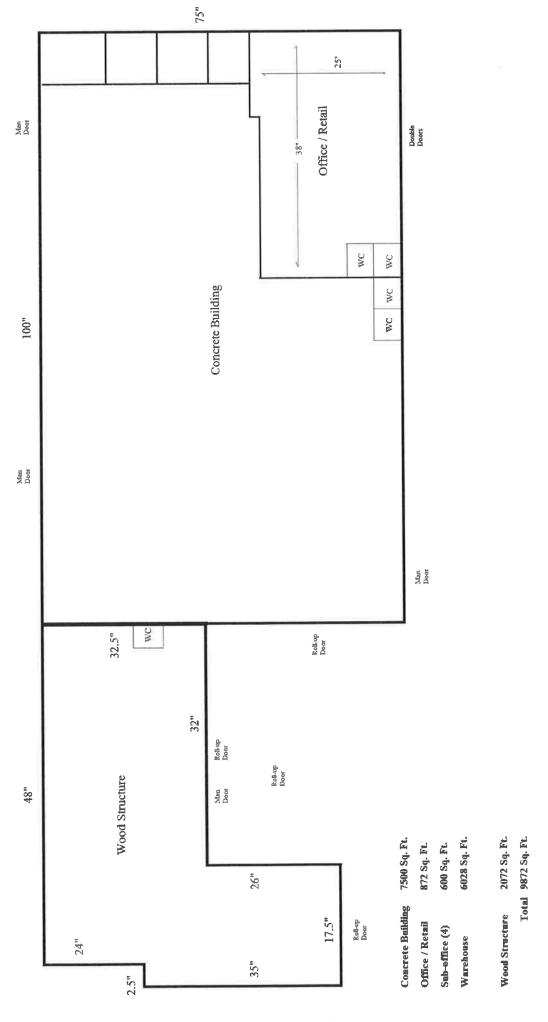
# Google Maps 14609 NE 91st St



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EXHIGIT

EXHIBIT D



EXHIPIT E



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### Permit Number: FIRE-2014-02254

Paratt Dection

Type: Fire Life Safety

Work Class: Tenant

Status: Issued

Description: 332\_BLDG FILE, ...

IVR Number: 114440

Project Name: 332\_HOOPER BLDG

District: Willows / Rose Hill

Square Feet: 0.00

Valuation: 0.0000

Application Date: 3/27/2014

Issued Date: 2/1/2016

Expiration Date: None

Finaled Date: None

Chray Aldres Danies

Parcel: 0325059177

Address: 14609 NE 91ST ST

REDMOND, WA 98052

United States





FIRE Life 3/27/2014 2/1/2015 Hill, Jim Safety Approved Inspection FIRE Life Correction Safety 5/14/2015 2/1/2016 Smith, Gary Required Inspection FIRE Life Displaying items 1 - 4 of 4

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# **CITY OF REDMOND INSPECTION WORKSHEET (INSP-2015-16326)**

Case Number:

FIRE-2014-02254

Inspection Date:

03/02/2016

Inspector:

Gary Smith - Primary Inspector

**Inspection Status:** 

Correction Required

Inspection Type:

FIRE Life Safety Inspection

Job Address:

14609 Ne 91St St Redmond, WA 98052 Parcel Number: FOGIS Number:

0325059177

Contact Type

Owner

Company Name

Name

Hooper Imports

Larry Hooper

Tenant - Commercial

Matt Wittmier

Checklist Item	Passed	Comments
Verify Contact Information - Billing	Yes	Update building contact email: Hooperbuilding@gmail.com
Re-Inspection Required	Yes	30 days
Fire Inspection Comments	Yes	3 yr inspection completed
Confidence Test - Alarm IFC 907.20.5	No	3/2/16 gs need proof of current alarm and central station service from alarm company posted near alarm panel
Misc - Exits	No	Need to label doors on rear of building that are shut with additional crossbars. Labeling needs to be on the outside of building saying something to the effect that door is not operable so fire department doesn't try to gain entry through a reinforced door.
Misc - Work Without a Permit	No	3/2/16 gs Room inside of the warehouse did not have sprinkler coverage. This room was added with out a permit. Will need to come to city to obtain a permit and plan to install sprinkler coverage to the room. Other possibility is to remove this additional room
Confidence Test - Sprinkler IFC 903.5	No	3/2/16 gs need proof of current sprinkler confidence test

Page 1 of 1



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## Permit Number: FIRE-2014-02254

Permit Decilla

Type: Fire Life Safety

Work Class: Tenant

Status: Issued

Description: 332\_BLDG FILE, ...

IVR Number: 114440

Project Name: 332\_HOOPER BLDG

District: Willows / Rose Hill

Square Feet: 0.00

Valuation: 0.0000

Application Date: 3/27/2014

Issued Date: 2/1/2016

**Expiration Date: None** 

Finaled Date: None

Primary Address Ostails

Parcel: 0325059177

Address: 14609 NE 91ST ST

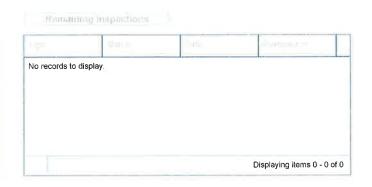
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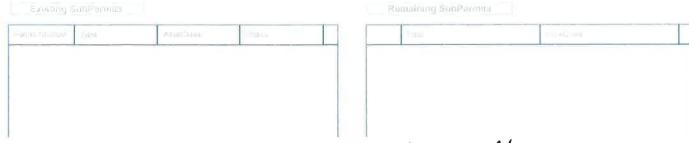
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EXA F PASE 5

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### Permit Number: FIRE-2014-02255

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Type: Fire Life Safety

Work Class: Tenant

Status: Finaled

Description: (Hooper Imports...

IVR Number: 114441

Project Name: Vacant (04/2015)-Hooper

Imports

District: Willows / Rose Hill

Square Feet: 0.00

Valuation: 0.0000

Application Date: 3/27/2014

Issued Date: 2/1/2014

Expiration Date: 2/2/2015

Finaled Date: 1/9/2017

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Parcel: 0325059177

Address: 14609 NE 91ST ST

Redmond, WA 98052



Tenant -HOOPER IMPORTS LLC Commercial Accounts Hooper Payable Larry Hooper Fire-Maint Imports Contact Displaying items 1 - 2 of 2 [1]

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EXH F. PAGE 8



# Permit Number: FIRE-2016-01246



**Quick Links** 

Type: Fire Single-Use

Work Class: Fire Follow-Up
Status: Issued

Subscribe / Follow On:

Description: 332\_BLDG FILE

IVR Number: 134440

Project Name: 332\_HOOPER BLDG

District: Willows / Rose Hill

Square Feet: 0.00

Valuation: 0.0000

Application Date: 2/19/2016

Issued Date: 2/19/2016

Expiration Date: None

Finaled Date: None

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Address: 14609 NE 91ST ST

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# Permit Number: FIRE-2014-01577



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Subscribe / Follow On:

Type: Fire Alarm

Work Class: Quick Start with

Transmitter

Status: Finaled

Description: Hooper Imports ...

IVR Number: 113763

Project Name:

District: Willows / Rose Hill

Square Feet: 0.00

Valuation: 0.0000

Application Date: 3/5/2014

Issued Date: 3/5/2014

Expiration Date: 12/30/2014

Finaled Date: 7/3/2014

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Parcel: 0325059177

Address: 14609 NE 91ST ST

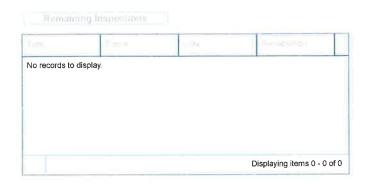
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# Permit Number: FIRE-2013-02264

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Type: Fire Life Safety

Work Class: Tenant

Status: Finaled

Description: 332\_BLDG FILE

IVR Number: 102260

Project Name: 332\_HOOPER BLDG

District: Willows / Rose Hill

Square Feet: 0.00

Valuation: 0.0000

**Application Date: 3/22/2013** 

Issued Date: None

**Expiration Date: None** 

Finaled Date: 2/19/2016

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Parcel: 0325059177

Address: 14609 NE 91ST ST

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### Permit Number: FIRE-2013-02263

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Type: Fire Life Safety

Work Class: Tenant

Status: Finaled

Description: Hooper Imports

IVR Number: 102259

Project Name: Vacant (04/2015)-Hooper

**Imports** 

District: Willows / Rose Hill

Square Feet: 0.00

Valuation: 0.0000

Application Date: 3/22/2013

Issued Date: 2/1/2013

Expiration Date: 2/3/2014

Finaled Date: 2/19/2016

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Parcel: 0325059177

Address: 14609 NE 91ST ST

Redmond, WA 98052



Tenant - HOOPER
Commercial IMPORTS LLC
Accounts
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Larry Hooper Fire-Maint
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Existing SubPermits

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### Permit Number: FDM-13821087

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Type: Fire Life Safety

Work Class: Building

Status: Finaled

Description: 332\_BLDG FILE

IVR Number: 0

Project Name: 332\_HOOPER BLDG

District: Willows / Rose Hill

Square Feet: 0.00

Valuation: 0.0000

Application Date: 1/1/1901

Issued Date: None

Expiration Date: 3/3/2014

Finaled Date: 2/19/2016

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Redmond, WA 98052







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Type: Electrical - OTC IVR Number: 115658 Application Date: 4/25/2014

Work Class: Commercial Project Name: 332 Issued Date: 4/25/2014

Status: Issued District: Willows / Rose Hill Expiration Date: 10/22/2014

Description: Hooper Commerci... Square Feet: 0.00 Finaled Date: None

Parcel: 0325059177

Address: 14609 NE 91ST ST

REDMOND, WA 98052 United States

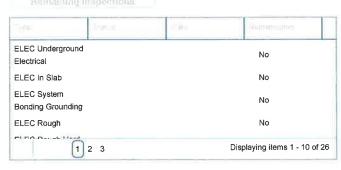


Valuation: 135.0000

Applicant Castle Electric Ed Luraghi
HOOPER
Owner COMMERCI...
HOLDING LLC
Contractor CASTLE

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# Permit Number: ELEC-2014-01581



Type: Electrical - OTC

Work Class: Commercial

Status: Issued

Firming to take

Description: Hooper Imports ...

IVR Number: 113767

**Project Name:** 

District: Willows / Rose Hill

Square Feet: 0.00

Valuation: 1510.2100

Application Date: 3/5/2014

Issued Date: 3/5/2014

Expiration Date: 11/24/2014

Finaled Date: None

Primary Additions Catalis

Parcel: 0325059177

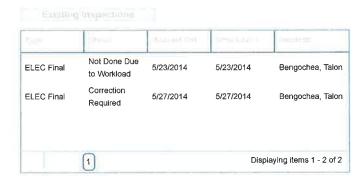
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REDMOND, WA 98052

United States



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